

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JON ROYAL FLEMING.

Petitioner,

V.

KEN QUINN.

Respondent.

Case No. C05-5719RJB

ORDER FOR SERVICE AND
RETURN, § 2254 PETITION AND
RE-NOTING PETITIONER'S
MOTION FOR APPOINTMENT
OF COUNSEL

This 28 U.S.C. § 2254 petition for habeas corpus relief has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254.

Petitioner has filed a motion for appointment of a counsel. (Dkt. # 9). That motion is re-noted by the court for **January 20th, 2006** to give respondent time to respond to the motion. The court now **ORDERS**:

(1) The clerk shall arrange for service by certified mail upon respondent, a copy of the petition, of all documents in support thereof, and of this Order. All costs of service shall be advanced by the United States. The Clerk shall assemble the necessary documents to effect service. The Clerk shall send petitioner a copy of this Order, the General Order. The clerk will also send a

ORDER FOR SERVICE AND RETURN, 2254 PETITION - 1

1 courtesy copy of the petition to the Washington State Attorney General's Office Criminal Justice
2 Division.

3 (2) Within forty-five (45) days after such service, respondent shall file and serve an
4 answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District
5 Courts. As part of such answer, respondents should state whether petitioner has exhausted available
6 state remedies, whether an evidentiary hearing is necessary, and whether there is any issue of abuse
7 of delay under Rule 9. Respondent shall not file a dispositive motion in place of an answer without
8 first showing cause as to why an answer is inadequate. Respondent shall file the answer with the
9 Clerk of Court and serve a copy of the answer upon petitioner.

10 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon
11 receipt of the Answer the Clerk will note the matter for consideration on the fourth Friday after the
12 answer is filed, petitioner may file and serve a response not later than on the Monday immediately
13 preceding the Friday appointed for consideration of the matter, and respondent may file and serve a
14 reply brief not later than on the Thursday immediately preceding the Friday designated for
15 consideration of the matter.

16

17

18 DATED this 8th day of December, 2005.

19

20

/S/ J. Kelley Arnold

21

J. Kelley Arnold

22

United States Magistrate Judge

23

24

25

26

27

28

ORDER FOR SERVICE AND RETURN, 2254 PETITION - 2